

★ SEP 24 2018 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BROOKLYN OFFICE

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OSCAR REMACHE and WASHINGTON CONDOR,
individually, and on behalf of those similarly situated,

Plaintiffs,

**ORDER ADOPTING REPORT
AND RECOMMENDATION**
14-CV-3118 (AMD) (RML)

-against-

MAC HUDSON GROUP, et al.,

Defendants.
-----X

ANN M. DONNELLY, United States District Judge:

On May 19, 2014, the plaintiffs Oscar Remache and Washington Condor filed this action¹ against the defendants Mac Hudson Group, Mac Hudson Construction Corp., Mac Hudson Industries Cop., RJB Contracting Corp., RJB Contracting Carting Corp., RJB Demolition Corp., Peter Neodfides, Angelo Markatos, Armteck and Associations Corp., and Armtec Services Inc., alleging violations of the Fair Labor Standards Act and the New York Labor Law. (ECF No. 1.) Initially, Joshua S. Androphy represented all defendants; on April 13, 2015, he moved to withdraw as counsel for Mac Hudson Group, Mac Hudson Construction Corp., Mac Hudson Industries Corp., and Neodfides (the “Mac Hudson defendants”) because it was in the parties’ “best interests” for these defendants to have separate representation. (ECF No. 24.) Judge Roslynn R. Mauskopf granted Mr. Androphy’s motion to withdraw (ECF No. 30), and Magistrate Judge Robert Levy ordered that the Mac Hudson defendants obtain new counsel by July 20, 2015 (June 4, 2015 Minute Entry).² They failed to do so, and on February 8, 2016, the plaintiffs obtained a certificate of default against the Mac Hudson defendants. (ECF No. 53.)

¹ On December 9, 2014, the defendants consented to certification of a collective action. (December 9, 2014 Minute Entry.)

² This case was reassigned to me on November 18, 2015.

On December 14, 2017, the plaintiffs moved for default judgment against these defendants.³ (ECF No. 81.) Judge Levy held an inquest hearing on March 29, 2018 at which nine plaintiffs testified: Washington Condor, Oscar Remache, Walter Cepeda, Fabian Saravia, Kareem Ransom, Ramel Towles, Freddy Alvarez, Luis Aguilar, and Manuel Aguilar. (ECF No. 85.)

On September 7, 2018, Judge Levy issued a Report and Recommendation (“R&R”) recommending that I grant the plaintiff’s motion for default judgment against the Mac Hudson defendants and award damages to the plaintiffs who testified at the inquest hearing, but deny damages to the non-testifying plaintiffs without prejudice and with leave to renew their application for damages. (ECF No. 87.) Judge Levy also recommended that I award the testifying plaintiffs a total of \$748,078.28, consisting of (i) \$78,394.54 to plaintiff Condor; (ii) \$92,595.23 to plaintiff Remache; (iii) \$104,151.80 to plaintiff Cepeda; (iv) \$27,893.90 to plaintiff Saravia; (v) \$44,000.00 to plaintiff Ransom; (vi) \$34,513.43 to plaintiff Towles; (vii) \$22,359.54 to plaintiff Alvarez; (viii) \$55,264.00 to plaintiff Luis Aguilar; (ix) \$154,629.46 to plaintiff Manuel Aguilar; (x) \$127,110 in attorneys’ fees; and (xi) \$7,166.38 in costs. (*Id.* at 47.) Judge Levy also recommended that the testifying plaintiffs be awarded pre- and post-judgment interest. (*Id.* at 47.) The plaintiff served the R&R on the Mac Hudson defendants on September 12, 2018 (ECF No. 88), and Judge Levy ordered the parties to file objections to the R&R by September 21, 2018 (ECF No. 87 at 47). The parties have not filed any objections.

In reviewing a Report and Recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28

³ This action was certified as a collective action, but the motion for default judgment seeks damages as to only eighteen plaintiffs: Oscar Remache, Washington Condor, Ramel Towles, Walter Cepeda, Kareem Ransom, Fabian Saravia, Manuel Aguilar, Luis Aguilar, Freddy Alvarez, Cesar Guerrero, Christian Buestan, Edison Astudillo, Eli Samuel Cruz, Federico Escalona, Jorge Cobos Mendieta, Joshua Rivera, Juan Martinez, and Omar Noboa. (ECF No. 81-2.)

U.S.C. § 636(b)(1)(C). Where no party has objected to the magistrate judge's recommendation, "a district court need only satisfy itself that there is no clear error on the face of the record."

Urena v. New York, 160 F. Supp. 2d 606, 609–10 (S.D.N.Y. 2001) (quoting *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)).

I have reviewed Judge Levy's thoughtful and cogent Report and Recommendation, and find no error. Accordingly, I adopt the Report and Recommendation in its entirety. The plaintiffs' motion for default judgment against the Mac Hudson defendants (ECF No. 81) is granted. The Clerk of the Court is directed to enter judgment in favor of plaintiffs Washington Condor, Oscar Remache, Walter Cepeda, Fabian Saravia, Kareem Ransom, Ramel Towles, Freddy Alvarez, Luis Aguilar, and Manuel Aguilar in the amount of \$748,078.28. The Clerk of the Court is also directed to award prejudgment interest at the rate of 9% per annum based on the compensatory damages, midpoints, and per diem rates set forth in Judge Levy's R&R (ECF No. 87 at 39) as well as post-judgment interest at the statutory rate commencing after judgment (*id.* at 39–40).

SO ORDERED.

s/Ann M. Donnelly

Ann M. Donnelly
United States District Judge

Dated: Brooklyn, New York
September 24, 2018